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P. 02

SOLICITATION, OFFER AND AWARD

UNDER DPAS (16 CFR 330)

1. CONTRACT NO. F44650-99-D-0001	2. SOLICITATION NO. F44659-98-R0002	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (FBI) <input checked="" type="checkbox"/> NEGOTIATED (RPPI)	5. DATE ISSUED 05/15/98	6. ADDRESS OFFER TO ATTN: CAPT VANESSA GRANT
7. OFFER BY ACC CONTRACTING SQ CODE 130 DOUGLAS ST STE 403 LANGLEY AFB VA 23665		8. ADDRESS OFFER TO ATTN: CAPT VANESSA GRANT		

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offer in original and copies for furnishing the supplies or services in the Schedule will be received at the price specified in the Schedule. See ATTACHED LETTER

CAUTION - Late Submissions, Modifications, and Withdrawals: Section L, Paragraph 10, 12.214-7 or 12.215-10. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL: A. NAME CAPT VANESSA GRANT	B. TELEPHONE NO. (include area code and collect calls) (757) 764-4495
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OFFER (Must be fully completed by offeror)

12. Offer not apply if the solicitation includes the provisions at 12.214-18, Minimum Bid Acceptance Period.

A compliance with the above, the offeror agrees. If this offer is accepted within the period of days after the date of acceptance, a different period is specified by the offeror from the date of receipt of offer specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point, within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section L, Clause 10, 12.214-8)	10 CALENDAR DAYS	20 CALENDAR DAYS	30 CALENDAR DAYS	CALENDAR DAYS
	%	%	%	%
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offers and related documents provided and dated)	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
	01	6/25/98		
	02	7/7/98		
15. NAME AND ADDRESS OF OFFEROR CODE 08GAB FACILITY EMR 5501 350 FAIRFIELD AVE. BRIDGEPORT CT 06604	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) Anthony DiBenedetto Sr. Vice President & Gen. Mgr.			
17. TELEPHONE NO. (include area code) (203) 335-0266	18. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS BY SCHEDULE.		17. SIGNATURE Anthony DiBenedetto	18. OFFER DATE 7/22/98

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED CLINS 0001 - 0003	20. AMOUNT NTE \$250,000.000	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 15 U.S.C. 2044d(1) <input type="checkbox"/> 16 U.S.C. 2044d(1)	23. BUYER INVOICES TO ADDRESS BUYER IN 45 days unless otherwise specified		
24. ADMINISTERED BY (If other than Item 21) ADMINISTRATION OF INDIVIDUAL TASK TASKS WILL BE PERFORMED BY ORDERING ACTIVITIES	25. PAYMENT WILL BE MADE BY SPECIFIED IN EACH INDIVIDUAL TASK ORDER		
NAME OF CONTRACTING OFFICER (Type or print) JOHNNY K. JOHNSTON	27. UNITED STATES OF AMERICA Signature of Contracting Officer		28. AWARD DATE 12/14/98

IMPORTANT - Award will be made on this Form, or on Standard Form 24, or by other authorized official written notice.
NSN 7540-01-162-8084
PREVIOUS EDITION NOT USABLE

STANDARD FORM 33 (Rev. 4-85)
Prescribed by GSA
FAR (48 CFR) 101.214(d)

PART I - THE SCHEDULE
SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

1.0 SUPPLIES OR SERVICES: The Energy Service Company (ESCO), as the energy service contractor, shall furnish energy conservation measures (ECMs) (Reference Section C, paragraph 4.6) to Air Force installations located in Virginia, West Virginia, South Carolina, North Carolina, Washington D.C., Maryland, Delaware, Pennsylvania, New York, Connecticut, New Jersey, Rhode Island, Maine, Massachusetts, New Hampshire, and Vermont, hereinafter referred to as Region 4. In doing so, the ESCO shall furnish all labor, tools, equipment, and material necessary to identify potential energy efficiency improvements and to implement all approved ECMs. This contract will involve "turn-key" retrofit services which, in addition to project financing, will include energy conservation audits, ECM designs, energy efficient equipment installation, and maintenance services for most ECMs on a shared-cost basis. The Government will make monthly payments, following acceptance by the Government, based on a savings guarantee provided by the ESCO which will be composed of avoided capital investment, energy, demand, operating and maintenance costs. Avoided capital investment costs are defined as programmed expenditures for replacement equipment for which appropriations or funding has been approved. For purposes of this contract, avoided operating and maintenance costs are defined as those savings attributable to existing equipment maintenance contracts for those facilities described under the proposed task order. Payment for task orders will only be made from energy/water/sewage savings with the following exceptions: (a) capital investment savings may be included in a project the base is committed to funding during the time of the proposed task order; and, (b) there is an existing service contract(s) for operations and maintenance. Implementation of energy conservation and efficiency improvements under this contract is a three-phased program that consists of:

- (a) Phase I - Preliminary Site Survey;
- (b) Phase II - Facility Energy Audit and Economic Analysis;
- (c) Phase III - Project Implementation (design, engineering, equipment procurement, financing and installation); and Operation/Maintenance.

Phase I and Phase II may be directed by letter and the work shall not be separately priced. A contract task order, as authorized by Schedule B-1, CLIN 0003, shall be the vehicle for acquiring Phase III work. The purpose of this contract is to provide a negotiated contract from which Air Force installations located in Region 4 can readily definitize a contract task order (DD Form 1155 or SF 1449) for each facility or group of facilities.

1.1 The scope of this contract includes energy savings measures, including, but not restricted to electrical, gas, water, steam, and coal which may be accomplished by a privately financed ESPC on buildings and facilities of those Air Force installations located in Region 4. Energy conservation measures or efficiency improvements for electrical and/or mechanical equipment as well as infrastructure may be proposed by the ESCO for Government consideration and approval/disapproval. The Government will consider all ESCO proposals that have a ten year, or less, payback (See Section C, paragraph 4.8). It is not envisioned that energy system retrofits, facility construction, or energy system renovations or replacements, acquired through standard procurement procedures, using Congressionally

appropriated funds, will be accomplished under this contract except as noted below. Utility sponsored Demand Side Management (DSM) agreements in place with local utility service providers at the time this ESPC is awarded will continue and facilities designated in those agreements will be excluded from this contract for the duration of the DSM agreement. At no time will a proposal received under a Phase II Report of this contract be competed with the DSM or any other contractor.

CLIN 0001: Phase I - Preliminary Site Survey (IAW Statement of Work, paragraph 2.1):

NOTE: Phase I work shall not be separately priced. The ESCO will bear the cost for performing Phase I work and may recover that cost ONLY if the work proceeds to Phase III. If the work proceeds to Phase III, the cost for Phase I work will be negotiated and paid from savings.

CLIN 0002: Phase II - Facility Energy Audit and Economic Analysis (IAW Statement of Work, paragraph 2.2):

NOTE: Phase II work shall not be separately priced. The ESCO will bear the cost for performing Phase II work and may recover that cost ONLY if the work proceeds to Phase III. If the work proceeds to Phase III, the cost for Phase II work will be negotiated and paid from savings.

CLIN 0003: Phase III - ECM Implementation and Operations/Maintenance (IAW Statement of Work, paragraphs 2.3 and 2.4):

B-1 **Clauses and Provisions**

(a) Clauses and provisions from the Federal Acquisition Regulation (FAR) and supplements thereto are incorporated in this document by reference and in full text. Those incorporated by reference have the same force and effect as if they were given in full text.

(b) Clauses and provisions in this document will be numbered in sequence, but will not necessarily appear in consecutive order.

(c) Sections K, L and M will be physically removed from any resultant award, but will be deemed to be incorporated, by reference, in that award.

(d) The contract minimum shall be the seed project identified in Section J, Attachment 2. The seed project will be the initial project to be performed under this contract.

(e) The contract maximum shall be established as **\$250,000,000**. The contract maximum is the sum total of scheduled Government payments over the life of the contract, inclusive of the total contractor investment (direct labor (including subcontractor markups), materials, and equipment),

operations and maintenance costs, finance charges in the form of interest, profit, and overhead. Although interest is an allowable cost, the ESCO shall not be allowed to add any markup to the financing cost. Financing costs shall be a direct pass through cost from the financing institution.

PART I - THE SCHEDULE
SECTION E
INSPECTION AND ACCEPTANCE

E-5. **52.246-4 Inspection of Services--Fixed Price** (AUG 1996)
(IAW FAR 46.304)
(Applies to Phases I, II, and III)

E-18. **52.246-12 Inspection of Construction** (AUG 1996)
(IAW FAR 46.312)
(Applies to Phase III)

a. Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

b. The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

c. Government inspections and tests are for the sole benefit of the Government and do not-

(1) Relieve the contractor of responsibility for providing adequate quality control measures;

(2) Relieve the contractor of responsibility for damage to or loss of the material before acceptance;

- (3) Constitute or imply acceptance; or
- (4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) below.

d. The presence or absence of a Government inspector does not relieve the contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

e. The contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the contractor any additional cost of inspection or test when work is not ready at the time specified by the contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

f. The contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

g. If the contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the contractor or (2) terminate for default the contractor's right to proceed.

h. If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the contractor or its subcontractors, the contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

i. Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

E-34. **Inspection and Acceptance**
(IAW FAR 46.401(b) and 46.503)

Inspection and Acceptance of all work and services performed hereunder shall be by the Contracting Officer's Representative (COR) designated on individual task orders.

The Contracting Officer has designated technical management of this contract to the COR. COR duties will be performed as specified in each task order.

The Contracting Officer is the only person with the authority to alter terms and conditions of the contract.

PART I - THE SCHEDULE
SECTION F
DELIVERIES AND PERFORMANCE

F-1. Period of Performance
 (IAW FAR 11.401(a)):

Performance under this contract shall be for twenty-five (25) years from date of contract award. All task orders must be completed within the twenty-five (25) year contract period. Performance period for completing energy system retrofits and the sharing period for determining monthly ESCO payments shall be negotiated in each contract task order.

F-2. Place of Performance:
 (IAW FAR 11.401(a)):

Work performed under this contract may be ordered by any Air Force installation within the states making up Region 4, as specified in individual task orders.

F-3. Pre-Performance Conference:

The contractor shall, at the option of the Contracting Officer, meet in conference with the COR and Contracting Officer to discuss and develop mutual understandings relative to contract performance prior to initiating any Phase I or Phase II work. The contractor shall, at the option of the Contracting Officer, meet in conference with the COR and Contracting Officer to discuss and develop mutual understandings relative to contract performance prior to initiating Phase III work on each contract task order.

F-26. 52.242-15 Stop Work Order (AUG 1989)
 (IAW FAR 42.1305(b)(1))

a. The Contracting Officer may, at any time, by written order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the contractor shall immediately comply with it terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the

Termination for Convenience of the Government, clause of this contract.

b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the contractor shall resume work. The Contracting Officer shall make on equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and,

(2) The contractor asserts its rights to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal submitted at any time before final payment under this contract.

c. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

d. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

F-29. 52.242-17 Government Delay of Work (APR 1984)
(IAW FAR 42.1305(d))

a. If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

b. A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after termination of the delay or interruption, but not later than the day of final payment under the contract.

PART I - THE SCHEDULE
SECTION G
CONTRACT ADMINISTRATION DATA

G-1 ACCOUNTING AND APPROPRIATION DATA

1. **INVOICING INSTRUCTIONS:** The ESCO shall submit invoices as specified in individual task orders.

2. **CONTRACT ADMINISTRATION**

Administration of this contract will be performed by:

ACC CONS/LGCE
130 Douglas St, Suite 403
Langley AFB VA 23665-2791

Administration of task orders will be performed by the ordering installation.

3. **ACCOUNTING AND FINANCE OFFICE**

Contractor payment procedures for submitting invoices against task orders issued under this contract will be specified in each individual task order.

Accounting and Appropriation data will be cited on individual task orders

4. **REMITTANCE ADDRESS**

If an alternate remittance address is indicated within Block 13 of the Standard Form 1447 then you are requested to identify the alternate address in the space provided below:

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

H-3. Provision of Contracting Officer's Authority

(a) No person other than the Procuring Contracting Officer (PCO) shall have the authority to modify the terms of the basic contract. In the event the contractor, or any subcontractor, effects any change to the terms and conditions of the basic contract at the direction of any person other than the PCO, the change will be considered to have been made without authority.

(b) The PCO will delegate authority, in writing, to individual Air Force installations, or activities within the region to place orders against the basic contract. The installation contracting office will have the authority to issue and administer contract task orders. In the event the contractor, or any subcontractor, effects any change to the terms and conditions of the task order at the direction of any person other than the contracting officer, the change will be considered to have been made without authority and no increase will be made in the contract task order amount.

H-4. Services and Construction Clauses

Since this contract will involve both construction and services type work, the applicability of the Special Contract Requirements contained in this section will be annotated after the requirement in this section (either Services or Construction, or Construction and Services) to indicate which wage determination is applicable.

H-6 Davis Bacon Wage Rates (Construction)

Construction and testing work performed under this contract are subject to the minimum wages requirement of the Davis Bacon Act, see the Davis Bacon Act clause contained in Section I. Davis Bacon work is defined as construction, alteration, or repair (including painting, replacement of glass, and decorating) of all "public buildings or public works." Davis Bacon Wage Decisions containing the minimum required employee wages permissible will be provided by the ordering contracting office at the time Phase I work is directed.

H-7. Service Contract Act Requirements (Services) (41 USC 351-357)

Operations and maintenance services under this contract are subject to the requirements of the Service Contract Act of 1965, as amended, and attention is invited to the obligations of the Contractor under Section 4C of the amended Service Contract Act. The contractor agrees to provide to the Contracting Officer upon request a copy of any collective bargaining agreement applicable to employees performing on this contract.

Service Contract Act Wage Determinations containing the minimum required employee wages permissible will be provided by the ordering contracting office at the time Phase I work is directed. Phase III operations and maintenance activities are subject to the applicable Service Contract Act Wage Determination that will be provided for each task order.

H-8. Fire Prevention (Construction and Services)

The ESCO shall insure that all contract employees know how to report a fire. Contractor personnel shall observe all requirements for handling and storage of combustible supplies, materials, waste, and trash. Contractor employees operating critical equipment shall be trained to properly respond during a fire alarm or fire. Welding shall not be accomplished without prior coordination with the COR and approval of the Base Fire Department.

H-11. Information Concerning Performance and Payment Bonds
(Construction)

a. Within 10 days after issuance of a contract task order, the contractor shall furnish two bonds, each with good and sufficient surety or sureties acceptable to the Government: namely a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25A). Bonds shall remain in effect throughout the implementation portion of the task order. The penal sums of each bond will be as follows, but are not required for task orders of \$25,000 or less:

1. Performance Bond: The penal sum of the performance bonds shall equal 100 percent of the implementation cost, defined as the total estimated ECM Implementation cost as cited in the schedule of the contract task order.

2. Payment Bond: The penal sum of the performance bonds shall equal 50 percent of the implementation cost, defined as the total estimated ECM Implementation cost as cited in the schedule of the contract task order.

b. All required bonds will be furnished by the contractor to the Government prior to commencement of task order performance.

c. In the event of default in the performance of a contract task order, the performance bond shall be used by the Government, to obtain by contract or otherwise and upon such terms and in such a manner which the Contracting Officer may deem appropriate, services to complete the installation of project(s) specified in the contract, or remove the ECM equipment already installed by the ESCO, or subcontractor, and restore the site to its prior condition. The payment bond shall secure the performance and fulfillment of the ESCO's obligations for payment of suppliers and subcontractors.

d. The bond of any surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds will be accepted. Individual sureties will be acceptable if each surety deposits with the Contracting Officer cash, bonds, notes of the United States, or certified check drawn to the order of the Treasurer of the United States, or other such security as the Contracting Officer may deem necessary for the required amount of the guaranty, under the agreement that the collateral so deposited shall remain in the possession and control of the Treasurer of the United States for at least one year after the completion of the construction phase of each task order.

H-12. Protection of Lien Holder Interest (Services and Construction)
(IAW FAR 52.232-23)

a. It is recognized that due to the nature of the financing aspect of this type of contract, it may be necessary to finance with private sector funds a significant portion of the contractor's investment in energy conserving equipment. It may be necessary for this indebtedness to be secured by a Mortgage and Security Interest of the Lender in this contract and the contractor equipment referred to herein. To provide necessary protection, of any lien holder's interest, the contractor may be required to assign to the lender its rights under this contract.

b. Therefore, the Government will consider:

(1) requests for assignment of monies due or to become due under this contract.

(2) a proposed assignment of contract performance in the event the contractor defaults in contract performance or loan payments to the lender. Requests for assignment of the contract on the same terms and conditions will be approved if the proposed substitute contractor is acceptable to the Government.

c. A copy of all cure or show cause notices or notices of default will be mailed by the government to the lenders at least 10 days in advance of any termination of this contract. Requests to extend the 10-day cure or show cause response period may be made by the contractor or the lenders.

d. It is understood and agreed that the Government will not unreasonably withhold approval of requests or proposals submitted under paragraph b(1), b(2) and c above.

H-13. **Availability of Utility Services** (Construction and Services)

Notwithstanding any provisions in the contract regarding Availability and Use of Utility Services, all reasonable required amounts of water, gas, electricity, etc., essential to contract performance, will be made available from existing systems, outlets, and supplies at no cost to contractor personnel. All temporary connections, outlets, and distribution lines, as may be required, shall be installed and removed by the ESCO at his own expense.

H-17. **Contractor Payments** (Services)

a. The Government will begin making payments to the ESCO beginning the month following the first full calendar month after acceptance of the energy conservation measure by the Government. Payments will be structured (a sample payment calculation is provided in paragraph b below) so as to divide the ESCO's share of the guaranteed annual savings into twelve equal, or nearly equal payments. Each year, before the twelfth month's payment is made, a reconciliation will be performed to ensure the guaranteed savings were achieved or exceeded. If the annual reconciliation reveals a shortfall between the guaranteed savings amount and the actual savings achieved for that year, the ESCO shall, by a single payment in the form of a credit on the next monthly invoice, or as otherwise specified by the Contracting Officer pay to the Government the difference. Payments will continue for the period agreed to in the contract task order, up to the remainder of the contract term, except in the case of contract termination for the purpose of default or convenience.

b. Payment will be calculated as shown in the following example:

- (1) ESCO estimates a savings of \$140,000/year, and
- (2) ESCO guarantees a savings of \$120,000/year

- (3) ESCO's monthly payment is determined by:
 $\$120,000 \text{ (guaranteed savings)} \div 12 \text{ mo} = \$10,000/\text{mo}$

H-18. Governmental Legislation, Law or Other Policies

Because this is a long-term contract, if and when new governmental legislation, law or policy is enacted which may affect this contract, such new legislation, law, or policy may, at the Contracting Officer's discretion, be negotiated and incorporated into the contract.

H-21. Responsibility for Systems and Equipment (Construction and Services)

a. The contractor shall at all times during the term of the contract have full ownership responsibilities of the contractor-furnished systems and equipment. The contractor may modify, replace, or change the systems and equipment during the term of the contract from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with the COR and approval of the Contracting Officer. Any such modification, replacement, or change of equipment shall be performed by the contractor at no cost to the Government and shall not interfere with Government operations. Title to all systems and equipment shall vest in the Government upon completion of the contract task order.

b. As owner, the contractor shall be responsible for all loss or damage to the system's equipment and accessories except that arising out of fault or negligence on the part of the Government or its employees. All taxes and other charges in connection therewith, together with all liability arising out of the negligence of the contractor in the construction, operation, or maintenance of the systems, equipment, and accessories shall be the responsibility of the contractor.

c. The Government hereby grants to the contractor, all employees and subcontractors, free of any rental, but subject to the limitations specified in this contract, a revocable permit to enter the service location for any proper purpose under this contract, including use of the site or sites agreed upon by the parties hereto for the installation, operation, and maintenance of the contractor-owned equipment located on Government premises.

H-22. Material Approval Submittals (Construction and Services)

Each Phase II Report completed by the contractor shall contain details (as required by the Statement of Work) of the equipment the contractor proposes to install. Award of a contract task order is indicative of Contracting Officer approval of the proposed equipment; however, such approval does not relieve the contractor of responsibility for system operation. If at any time the contractor proposes to install materials or equipment different than those approved at time of task order award, prior approval of the Contracting Officer is required.

H-23. Installation Regulations (Construction and Services)

The contractor and employees shall be knowledgeable of and observe installation regulations, directives, and instructions applicable to the contractor's operations (i.e., fire, safety, security, energy conservation, environmental, etc.). The COR will make such regulations, directives, and instructions available for contractor review upon request.

H-24. **Termination Liability** (Construction and Services)

Clause 52.249-2, ALT 1, in Section I, applies to the period of performance preceding commencement of services; clause 52.249-2, also in Section I, applies to the performance period after commencement of services. If either clause is exercised, payment of any termination liability by the Government will be made as expeditiously as possible but is subject to the availability of appropriations.

H-25. **Guarantee of Savings to the Agency** (Services)

With respect to Title 42, U.S.C. 8287, the ESCO and the installation agrees that since this is a phased task order based contract, and that savings available to share will be determined for each task order and cannot be determined at this stage of contract formation, that the guaranteed saving and annual reconciliation mandated in the Act shall be established in each contract task order.

H-109 **Required Insurance** (IAW FAR 28.306(b))

Reference FAR clause entitled " **Insurance . . .**" the contractor shall, at its own expense, procure and thereafter maintain the following kinds of insurance with respect to performance under this contract.

a. Workmen's Compensation and Employer's Liability Insurance as required by law except that if this contract is to be performed in a State which does not require or permit private insurance, then compliance with the statutory or administrative requirements in any such State will be satisfactory. The required Workmen's Compensation insurance shall extend to cover employer's liability for accidental bodily injury or death and for occupational disease with a minimum liability limit of **\$100,000**.

b. General Liability Insurance. Bodily injury liability insurance, in the minimum limits of **\$500,000** per occurrence shall be required on the comprehensive form of policy Automobile Liability Insurance. This insurance shall be required in the comprehensive form of policy and shall provide bodily injury liability and property damage liability covering the operation of all automobiles used in connection with the performance of the contract. At least the minimum limits of **\$200,000** per person and **\$500,000** per occurrence for bodily injury and **\$20,000** per occurrence for property damage shall be required.

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)
 (IAW FAR 52.107(b))

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

<u>NO</u>	<u>FAR</u>	<u>CLAUSE TITLE</u>	<u>DATE</u>
I-11	52.202-1	Definitions (IAW FAR 2.201)	(OCT 1995)
I-19	52.203-3	Gratuities (IAW FAR 3.202)	(APR 1984)
I-20	52.203-5	Covenant Against Contingent Fees (IAW FAR 3.404)	(APR 1984)
I-21	52.203-6	Restrictions on Subcontractor Sales to the Government (IAW FAR 3.503-2)	(JUL 1995)
I-22	52.203-7	Anti-Kickback Procedures (IAW FAR 3.502-3)	(JUL 1995)
I-23	52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (IAW FAR 3.104.9(a))	(JAN 1997)
I-25	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (IAW FAR 3.104-9(b))	(JAN 1997)
I-25C	52.203-12	Limitation on Payments to Influence Certain Federal Transactions (IAW FAR 3.808(b))	(JUN 1997)
I-27	52.204-2	Security Requirements (IAW FAR 4.404(a))	(AUG 1996)
I-39	52.204-4	Printing/Copying Double-Sided On Recycled Paper (IAW FAR 4.304)	(JUN 1996)

I-78	52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (IAW FAR 9.409(b))	(JUL 1995)
I-100	52.211-10	Commencement, Prosecution, and Completion of Work (IAW FAR 11.404(b)) (a) To be stated in task order (c) To be stated in task order	(APR 1984)
I-102	52.211-15	Defense Priority and Allocation Requirements (IAW FAR 11.604(b))	(SEP 1990)
I-128	52.215-2	Audit and Records--Negotiation (IAW FAR 15.209(b)(1))	(AUG 1996)
I-129G	52.215-8	Order of Precedence - Uniform Contract Format (IAW FAR 15.209 (h))	(OCT 1997)
I-170	52.216-18	Ordering (IAW FAR 16.506(a))	(OCT 1995)
for the purposes of this clause the blanks(s) are completed as follows: (a) issued from the effective date of contract through * _____ *To be completed at time of award.			
I-171	52.216-19	Order Limitations (IAW FAR 16.506(b))	(OCT 1995)
For the purposes of this clause the blank(s) are completed as follows: (a) \$ <u>1,000.00</u> (b)1) \$ <u>10,000,000.00</u> (b)2) \$ <u>25,000,000.00</u> (b)3) <u>30 Days</u> (d) <u>15 Days</u>			
I-178	52.216-22	Indefinite Quantity (IAW FAR 16.506(3))	(OCT 1995)
For the purposes of this clause the blanks(s) are completed as follows: (d) Contractor shall not be required to make any deliveries under this contract <u>after contract expiration (not to exceed 25 years)</u> .			
I-190	52.217-2	Cancellation Under Multiyear Contracts (IAW FAR 17.109(a)) (NOTE: Each task order will contain a termination schedule)	(OCT 1997)
I-214	52.219-8	Utilization of Small, Small Disadvantaged Business and Woman-Owned Small Business Concerns	(JUN 1997)

I-216C	52.219-9	(IAW FAR 19.708(a)) Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan – Alternate II (IAW FAR 19.708(b)(1))	(AUG 1996)
I-223	52.219-16	Liquidated Damages-Subcontracting Plan (IAW FAR 19.708(b)(2))	(AUG 1998)
I-247	52.222-3	Convict Labor (IAW FAR 22.202)	(AUG 1996)
I-248	52.222-4	Contract Work Hours and Safety Standards Act-- Overtime Compensation (IAW FAR 22.305)	(JUL 1995)
I-250	52.222-6	Davis-Bacon Act (IAW FAR 22.407(a))	(FEB 1995)
I-251.	52.222-7	Withholding of Funds (IAW FAR 22.407(a)(2))	(FEB 1988)
I-252.	52.222-8	Payrolls and Basic Records (IAW FAR 22.407(a)(3))	(FEB 1988)
I-253.	52.222-9	Apprentices and Trainees (IAW FAR 22.407(a)(4))	(FEB 1988)
I-254.	52.222-10	Compliance With Copeland Act Requirements (IAW FAR 22.407(a)(5))	(FEB 1988)
I-255.	52.222-11	Subcontracts (Labor Standards) (IAW FAR 22.407(a)(6))	(FEB 1988)
I-256.	52.222-12	Contract Termination--Debarment (IAW FAR 22.407(a)(7))	(FEB 1988)
I-257.	52.222-13	Compliance With Davis-Bacon and Related Act Regulations (IAW FAR 22.407(a)(8))	(FEB 1988)
I-258.	52.222-14	Disputes Concerning Labor Standards (IAW FAR 22.407(a)(9))	(FEB 1988)
I-259	52.222-15	Certification of Eligibility (IAW FAR 22.407(a))	(FEB 1988)
I-264	52.222-26	Equal Opportunity (IAW FAR 22.810(e))	(APR 1984)
I-266	52.222-27	Affirmative Action Compliance Requirements (IAW FAR 22.810(f))	(APR 1984)
I-267	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts (IAW FAR 22.810(g), 44.204(a), (b), and (c))	(APR 1984)
I-274	52.222-35	Affirmative Action Disabled Veterans And for Veterans of the Vietnam Era (IAW FAR 22.1308(a)(1), and DFARS 22.1308(a)(1))	(APR 1998)
I-276	52.222-36	Affirmative Action For Workers with Disabilities (IAW FAR 22.1408(a))	(JUN 1998)

I-278	52.222-37	Employment Reports On Disabled Veterans And Veterans Of The Vietnam Era (IAW FAR 22.1308(b))	(APR 1988)
I-283	52.222-41	Service Contract Act of 1965, As Amended IAW FAR 22.1006(a)	(MAY 1989)
I-284	52.222-42	Statement of Equivalent Rates for Federal Hires (IAW FAR 22.1006(b))	(MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This statement is for information only: It is not a Wage Determination:

<u>Employee Class</u>	<u>Monetary Wage & Fringe Benefits</u>
Computer Operator	\$*
Clerk/Secretarial/Word Processing	\$*
Electrician	\$*
Maintenance Electrician	\$*
Heating, Refrigeration an A/C Mechanic	\$ *
Sheet Metal Worker	\$ *
Electromechanical Technician	\$ *
Draftsman	\$ *
Electronics Technician	\$ *
Truck Driver, Medium	\$ *
Laborer	\$*

* Will be provided by the ordering installation prior to negotiation of the first task order for that installation. [The Equivalent rates for Federal hires for the seed project are contained at Attachment 2 with the seed project information.](#)

I-285	52.222-43	Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple-Year and Option Contracts) (IAW FAR 22.1006(c)(1))	(MAY 1989)
I-292	52.223-2	Clean Air and Water (IAW FAR 23.105(b))	(APR 1984)
I-294	52.223-5	Pollution Prevention And Right-To-Know Information (IAW FAR 23.1005)	(APR 1998)
I-295	52.223-6	Drug-Free Workplace (IAW FAR 23.505)	(JAN 1997)
I-297E	52.223-14	Toxic Chemical Release Reporting (IAW FAR 23.907(b))	(OCT 1996)
I-312	52.225-11	Restrictions on Certain Foreign Purchases (IAW FAR 25.702)	(AUG 1998)
I-312D	52.225-15	Buy American Act – Construction Materials Under Trade Agreements Act and North American Free Trade Agreement (IAW FAR 25.207(d))	(JUN 1997)
I-314D	52.226-1	Utilization Of Indian Organizations and Indian-Owned Economic Enterprises (IAW FAR 26.104(a))	(SEP 1996)
I-315	52.227-1	Authorization and Consent (IAW FAR 27.201-2(a))	(JUL 1995)
I-317	52.227-2	Notice And Assistance Regarding Patent and Copyright Infringements (IAW FAR 27.202-2)	(AUG 1996)
I-321	52.227-4	Patent Indemnity-Construction Contracts (IAW FAR 27.203-5)	(APR 1984)
I-334	52.228-2	Additional Bond Security (IAW FAR 28.106-4)	(OCT 1997)
I-337	52.228-5	Insurance--Work on a Government Installation (IAW FAR 28.310)	(JAN 1997)
I-345	52.228-11	Pledges of Assets (IAW FAR 28.203-6)	(FEB 1992)
I-352	52.229-3	Federal, State, and Local Taxes (IAW FAR 29.401-3)	(JAN 1991)
I-354	52.229-5	Taxes--Contracts Performed in U.S. Possessions or Puerto Rico (IAW FAR 29.401-5)	(APR 1984)
I-383	52.232-1	Payments (IAW FAR 32.111(a)(1))	(APR 1984)
I-391	52.232-8	Discounts For Prompt Payment (IAW FAR 32.111(c)(1))	(MAY 1997)
I-394	52.232-11	Extras	(APR 1984)

(IAW FAR 32.111(d)(2))

I-403	52.232-17	Interest (IAW FAR 32.617(a) and 32.617(b))	(JUN 1996)
I-404	52.232-18	Availability Of Funds (IAW FAR 32.705-1(a))	(APR 1984)
I-405	52.232-19	Availability Of Funds For The Next Fiscal Year (IAW FAR 32.705-1(b))	(APR 1984)

For the purposes of this clause the blank(s) are completed as follows:

30 SEPTEMBER OF THE CURRENT FISCAL YEAR

I-409	52.232-23	Assignment of Claims (IAW FAR 32.806(a)(1))	(JAN 1986)
I-412	52.232-25	Prompt Payment	(JUN 1997)

For the purposes of this clause the blank(s) are completed as follows:

		(a)(5)(i) <u>7th</u>	
		(b)(1) <u>30th</u>	
		(IAW FAR 32.908(c))	
I-417	52.233-1	Disputes (IAW FAR 33.215)	(OCT 1995)
I-419	52.233-3	Protest After Award (IAW FAR 33.106(b))	(AUG 1996)
I-444	52.236-1	Performance of Work by the Contractor (IAW FAR 36.501(b)) <u>To be cited in individual task orders</u>	(APR 1984)
I-445	52.236-2	Differing Site Conditions (IAW FAR 36.502)	(APR 1984)
I-446	52.236-3	Site Investigation and Conditions Affecting the Work (IAW FAR 36.503)	(APR 1984)
I-448	52.236-5	Material and Workmanship (IAW FAR 36.505)	(APR 1984)
I-449	52.236-6	Superintendence by Contractor (IAW FAR 36.506)	(APR 1984)
I-450	52.236-7	Permits and Responsibilities (IAW FAR 36.507)	(NOV 1991)
I-451	52.236-8	Other Contracts (IAW FAR 36.508)	(APR 1984)
I-452	52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (IAW FAR 36.509)	(APR 1984)
I-453	52.236-10	Operations and Storage Areas (IAW FAR 36.510)	(APR 1984)

I-455	52.236-12	Cleaning Up (IAW FAR 36.512)	(APR 1984)
I-456	52.236-13	Accident Prevention (IAW FAR 36.513(a))	(NOV 1991)
I-457	52.236-13	Alternate I (IAW FAR 36.513(b))	(NOV 1991)
I-459	52.236-15	Schedules for Construction Contracts (IAW FAR 36.515)	(APR 1984)
I-466	52.236-21	Specifications & Drawings for Construction (IAW FAR 36.521)	(FEB 1997)
I-541	52.242-13	Bankruptcy (IAW FAR 42.903)	(JUL 1995)
I-542	52.242-14	Suspension of Work (IAW FAR 42.1305(a))	(APR 1984)
I-546	52.243-1	Changes-Fixed Price (IAW FAR 43.205(a)(1))	(AUG 1987)
I-548	52.243-1	Changes--Fixed Price - Alternate II (IAW FAR 43.205(a)(3))	(APR 1984)
I-574	52.244-6	Subcontracts For Commercial Items and Commercial Components (IAW FAR 44.403)	(APR 1998)

(a) Definition.

“Commercial Item”, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions

“Subcontract”, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

- (1) 52.222-26, Equal Opportunity (E.O. 11246);
- (2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212(a));
- (3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and
- (4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d),

in subcontracts awarded under this contract.

I-580	52.245-2	Government Property (Fixed-Price Contracts) (IAW FAR 45.106(b)(1))	(DEC 1989)
I-581	52.245-2	Government Property (Fixed-Price Contracts) Alternate I (IAW FAR 45.106(b)(2))	(APR 1984)
I-624	52.246-21	Warranty of Construction (IAW FAR 46.710(e)(1))	(MAR 1994)
I-630	52.246-25	Limitation of Liability--Services (IAW FAR 46.805)	(FEB 1997)
I-671	52.248-1	Value Engineering (Deviation) (IAW FAR 48.201)	(MAR 1989)
I-684	52.249-2	Termination for Convenience of the Government (Fixed-Price) (IAW FAR 49.502(b)(1)(i))	(SEP 1996)

TERMINATION LIABILITY: For the purposes of the Termination for Convenience clause contained herein, the total contract price shall be limited to the ESCO's share (excludes any ICP grants, rebates or utility company funding) of the ECM cost as established in each contract delivery order. Accordingly, the Government's maximum termination liability in the event of a termination for the convenience of the Government, shall not exceed the sum of the payments due the ESCO for the remainder of the task order term plus other termination costs as detailed in the Performance Work Statement, Page 10, Exhibit K.

I-685	52.249-2	Alternate I (IAW FAR 49.502(b)(1)(i))	(SEP 1996)
I-699	52.249-8	Default (Fixed-Price Supply and Service) (IAW FAR 49.504(a)(1))	(APR 1984)
I-702	52.249-10	Default (Fixed-Price Construction) (IAW FAR 49.504(c)(1))	(APR 1984)
I-733	52.252-6	Authorized Deviations in Clauses (IAW FAR 52.107(f))	(APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

IA-22	252.203-7001	Special Prohibition on Employment (IAW DFARS 203.570-5)	(JUN 1997)
IA-24	252.203-7002	Display Of DOD Hotline Poster (IAW DFARS 203.7002)	(DEC 1991)
IA-33	252.204-7003	Control Of Government Personnel Work Product (IAW DFARS 204.404-70(b))	(APR 1992)
IA-34	252.204-7004	Required Central Contractor Registration (IAW DFARS 204.7304)	(MAR 1998)

- IA-40 **252.205-7000 Provision Of Information To Cooperative Agreement Holders** (DEC 1991)
(IAW DFARS 205.470-2)
- IA-90 **252.209-7000 Acquisition From Subcontractors Subject To On-Site Inspection Under The Intermediate-Range Nuclear Forces (INF) Treaty** (NOV 1995)
(IAW DFARS 209.103-70)
- IA-152 **252.215-7000 Pricing Adjustments** (DEC 1991)
(IAW DFARS 215.804-8)
- IA-225 **252.219-7003 Small, Small Disadvantaged And Women-Owned Small Business Subcontracting Plan (DOD Contracts)** (APR 1996)
(IAW DFARS 219.708(b)(1)(A))
- IA-227 **252.219-7005 Incentive For Subcontracting With Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, And Minority Institutions** (NOV 1995)
(IAW DFARS 219.708(c)(1)(A))
- For the purposes of this clause the blank is completed as follows:
(a) 0 percent
- IA-230 **252.219-7006 Notice of Evaluation Preference For Small Disadvantaged Business Concerns** (JUN 1997)
(IAW DFARS 219.7003)
- For the purposes of this clause, the offeror will complete the following, if applicable
[] Offeror elects to waive the preference
- IA-280 **252.223-7004 Drug-Free Work Force** (SEP 1988)
(IAW DFARS 223.570-4)
- IA-282 **252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials** (APR 1993)
(IAW DFARS 223.7103)
- IA-287 **252.225-7001 Buy American Act And Balance of Payments Program** (JAN 1994)
(IAW DFARS 225.109(d))
(The "Balance of Payments Program" is not applicable when the estimated cost of the product or service is at or below the Simplified Acquisition Threshold in FAR Part 13)
- IA-288 **252.225-7002 Qualifying Country Sources As Subcontractors** (DEC 1991)
(IAW DFARS 225.109-70(a))
(The balance of Payments Program is not applicable when the estimated cost of the product or service is at or below \$100,000)

IA-293	252.225-7012	Preference for Certain Domestic Commodities (SEP 1997) (IAW DFARS 225.7002-3(a) and D.L. Ltr 97-018 dated 8 Sep 97)	
IA-297	252.225-7016	Restriction On Acquisition Of Ball and Roller Bearings (IAW DFARS 225.7019-4)	(JUN 1997)
(Clause is not applicable when items acquired overseas are for use overseas)			
IA-312C	252.225-7026	Reporting Of Contract Performance Outside The United States (IAW DFARS 225.7203)	(MAR 1998)
IA-312H	252.225-7031	Secondary Arab Boycott Of Israel (IAW DFARS 225.770-5)	(JUN 1992)
IA-337	252.227-7015	Technical Data--Commercial Items (IAW DFARS 227.7102-3)	
IA-350	252.227-7033	Rights in Shop Drawings (IAW DFARS 227.7107-1(c))	(APR 1966)
IA-353	252.227-7037	Validation of Restrictive Markings on Technical Data (IAW DFARS	
IA-399	252.231-7000	Supplemental Cost Principles (IAW DFARS 231.100-70)	(DEC 1991)
IA-426	252.232-7009	Payment by Electronic Funds Transfer (CCR) (IAW DFARS 232.1103)	(JUN 1998)
IA-462	252.236-7000	Modification Proposals-Price Breakdown (IAW DFARS 236.570(a))	(DEC 1991)
IA-474	252.236-7005	Airfield Safety Precautions (IAW DFARS 236.570(b)(3))	(DEC 1991)
IA-632	252.242-7000	Postaward Conference (IAW DFARS 242.570)	(DEC 1991)
IA-648	252.243-7001	Pricing of Contract Modifications (IAW DFARS 243.205-71)	(DEC 1991)
IA-649	252.243-7002	Request for Equitable Adjustment (IAW DFARS 243.205-72)	(MAR 1998)
IA-745	252.247-7023	Transportation Of Supplies By Sea (IAW DFARS 247.573(b))	(NOV 1995)

(a) **Definitions.** As used in this clause—

- (1) “*Components*” means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.
- (2) “*Department of Defense*” (DOD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.
- (3) “*Foreign flag vessel*” means any vessel that is not a U.S.-flag vessel.
- (4) “*Ocean transportation*” means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) “*Subcontractor*” means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

(6) “*Supplies*” means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DOD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DOD if, for example, the contract documentation contains a reference to a DOD contract number or a military destination.

(ii) “*Supplies*” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing

(7) “*U.S.-flag vessel*” means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The contractor shall employ U.S.-flag vessels in the transportation by sea of any supplies to be furnished in the performance of this contract. The contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

- (1) U.S.-flag vessels are not available for timely shipment;
- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.

(c) The Contractor must submit a request for use of other than U.S.-flag vessels, in writing, to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer’s failure to grant approvals to meet the shipper’s sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

- (1) Type, weight, and cube of cargo;
- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and
- (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(d) The contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the *Division of National Cargo, Office of Market Development, Maritime*

Administration, U. S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information—

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(e) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract.
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY	TOTAL
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(f) If the final invoice does not include the required representations, the Government will reject and return it to the contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(g) The Contractor shall include this clause, including this paragraph (g), in all subcontracts under this contract, which exceed the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation.

(IAW DFARS 247.573(c))

(a) The Contractor has indicated by the response to the solicitation provision, *Representation of Extent of Transportation by Sea*, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the contractor learns that supplies, as defined in the *Transportation of Supplies by Sea* clause of this contract, will be transported by sea, the Contractor

- (1) Shall notify the Contracting Officer of that fact; and
- (2) Hereby agrees to comply with all the terms and conditions of the *Transportation of Supplies by Sea* clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

Clause IA-746 above applies only if the contractor makes a negative response to the inquiry in the provision at 252.247-7022 (Section K).

IB-4. 5352.204-9000	Notification of Government Security Activity (IAW AFFARS 5304.404-90)	(MAY 1996)
IB-5. 5352.204-9001	Visitor Group Security Agreements (IAW AFFARS 5304.404-90)	(MAY 1996)
IB-320. 5352.223-9000	Elimination of Use of Class I Ozone Depleting Substances (ODS) (IAW AFFARS 5323.890-7)	(MAY 1996)

(a) It is the Air Force policy to preserve mission readiness while minimizing dependency on Class I Ozone Depleting Substances (ODS), and their release into the environment, to help protect the Earth's stratospheric ozone layer.

(b) Unless a specific waiver has been approved, Air Force procurements:

- (1) May not include any specification, standard, drawing or other document that requires the use of a Class I ODS in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component or process; and
- (2) May not include any specification, standard, drawing, or other document that establishes a requirement that can only be met by use of a Class I ODS;

(c) For the purposes of Air Force policy, the following are Class I ODS:

- (1) Halons: 1011, 1202, 1211, 1301, and 2402;
- (2) Chlorofluorocarbons (CFCs): CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-113, CFC-114, CFC-115, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, and CFC-217, and the blends R-500, R-501, R-502, and R-503; and
- (3) Other Controlled Substances: Carbon Tetrachloride, Methyl Chloroform, and Methyl Bromide.

(d) The Air Force has reviewed the requirements specified in this contract to reflect

this policy. Where considered essential, specific approval has been obtained to require use of the following substances:

Substance	Application/Use	Quantity (lbs)
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(e) To assist the Air Force in implementing this policy, the offeror/contractor is required to notify the Contracting Officer if any Class I ODS not specifically listed above is required in the performance of this contract.

IB-321. **5352.223.9001** **Health and Safety on Government Installations** (JUN 1997)
(IAW AFFARS 5323.9002)

(a) In performing work under this contract on a Government installation, the Contractor shall:

- (1) Conform to the specific safety requirements established by this contract;
- (2) Comply with the safety rules of the Government installation that concern related activities not directly addressed in this contract;
- (3) Take all reasonable steps and precautions to prevent accidents and preserve the life and health of contractor and Government personnel performing or in any way coming in contact with the performance of this contract; and
- (4) Take such additional immediate precautions as the Contracting Officer may reasonably require for safety and accident prevention purposes.

(b) If this contract is performed on an Air Force installation, the Air Force Occupational Safety and Health Standards (AFOSH) developed in accordance with AFI 91-301, Air Force Occupational Safety, Fire Prevention, and Health Program in effect on the date of this contract, apply. If contract performance is on other than an Air Force installation, the contractor shall comply with the safety rules of that Government installation, in effect on the date of this contract.

(c) The Contracting Officer may, by written order, direct additional AFOSH and safety and accident standards as may be required in the performance of this contract and any adjustments resulting from such direction will be in accordance with the **Changes** clause of this contract.

(d) Any violation of these safety rules and requirements, unless promptly corrected as directed by the Contracting Officer, shall be grounds for termination of this contract in accordance with the **Default** clause of this contract.

IB-343 **5352.242-9000** **Contractor Access To Air Force Installations** (MAY 1996)
(IAW AFFARS 5342.490-1)

(a) The contractor shall obtain base identification and vehicle passes for all contractor personnel who make frequent visits to or perform work on the Air Force installation(s) cited in the contract. Contractor personnel are required to wear or prominently display installation identification badges or contractor-furnished, contractor identification badges while visiting or performing work on the installation.

(b) The contractor shall submit a written request on company letterhead to the Contracting Officer listing the following: contract number, location of work site, start and stop dates, and names of employees and subcontractor employees needing access to the base. The letter will also specify the

individual(s) authorized to sign for a request for base identification credentials or vehicle passes. The Contracting Officer will endorse the request and forward it to the issuing base pass and registration office or security police for processing. When reporting to the registration office, the authorized contractor individual(s) should provide a valid driver's license, current vehicle registration, and valid vehicle insurance certificate to obtain a vehicle pass.

(c) During performance of the contract, the contractor shall be responsible for obtaining required identification for newly assigned personnel and for prompt return of credentials and vehicle passes for any employee who no longer requires access to the work site.

(d) When work under this contract requires unescorted entry to controlled or restricted areas, the contractor shall comply with AFI 31-209, the Air Force Resource Protection Program, and AFI 31-501, Personnel Security Program Management, as applicable.

(e) Upon completion or termination of the contract or expiration of the identification passes, the prime contractor shall ensure that all base identification passes issued to employees and subcontractor employees are returned to the issuing office.

(f) Prior to submitting an invoice for final payment, the prime contractor shall obtain a clearance certification from the issuing office which states all base identification passes have been turned in, accounted for, or transferred to a follow-on contract. This certification shall be submitted to the Contracting Officer prior to submission of the final invoice for payment.

(g) Failure to comply with these requirements may result in withholding of final payment.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**SECTION J****LIST OF ATTACHMENTS****(All listed attachments are at the end of this document)**

<u>ATTCH. NR</u>	<u>TITLE</u>	<u>DATE</u>	<u>NR PAGES</u>
Attachment 1	Section C Statement of Work	Apr 98	24
Form DD254	Department of Defense Contract Security Classification Specification		2

PART I - THE SCHEDULE
SECTION C
DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

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PART 3.0 TRAINING

PART 4.0 DEFINITIONS

1.0 GENERAL INFORMATION

1.1 Background: In compliance with The Energy Policy Act of 1992 (P.L. 102-486) and Executive Order 12902, the Air Force seeks to implement all proposals that have a 10 year or less payback as mandated by Title 10 USC 2865 by entering into an Energy Savings Performance (ESP) contract with a reputable Energy Services Company (ESCO) to finance, design, implement, monitor and maintain various energy conservation measures (ECMs). This Statement of Work, as part of an ESP contract, will provide the contract vehicle for implementing energy conservation measures (ECMs) that contribute to achieving mandated reductions in energy consumption. The ESP contractual arrangement is accomplished within the parameters of other federal contracting actions as authorized by Title 10 USC 2301, supplemented by Title 42 USC 8287 which specifically authorizes long-term contracts for energy conserving ESP initiatives. The ESP legislation requires the ESCO to finance ECMs and receive payment from the savings reflected in lower utility costs, avoided maintenance and other ancillary savings. Financing of ECMs installed at installations within **Region 4** shall be accomplished by the ESP contractor; however, any and all cash incentive payments, Institutional Conservation Program (ICP) grants or other subsidies received by the ESCO as a result of implementing the ECMs at installations within **Region 4** shall be credited to the ECM implementation costs prior to determining any payments to be made by the Government.

1.2 Contract Term: The term of this contract is for a period of 25 years.

1.3 Contracting Officer's Representative: The Contracting Officer's Representative (COR) shall be responsible for technical management, inspection and oversight, and coordinating the ESCO's interface in the selected facilities. This designation in no way authorizes anyone other than the Contracting Officer to commit the Government to changes in the terms of this contract. The Contracting Officer's Representative will be identified on individual task orders.

1.4 Contractor Employees: Within 15 days after award, the ESCO shall provide to the Contracting Officer the name(s), address(es), and telephone number(s) of contractor personnel to be contacted in case of emergency, and shall thereafter maintain this information current and up-to-date during the term of this contract. The designated points of contact shall be available 24 hours per day, 7 days per week, for the duration of the task order.

In accordance with the "Superintendence By Contractor" clause of Section I, the Contractor shall designate the responsible supervisory person or persons authorized to act for the Contractor.

The Contractor shall furnish sufficient personnel to perform all work specified within the contract task order for implementing approved ECMs. All personnel shall be competent and well-qualified to perform required work. Contractor employees shall conduct themselves in a proper, efficient, courteous and professional manner and shall wear attire which is as neat and clean as practical for the assigned task. All ESCO or subcontractor employees working under this contract shall be identified by a distinctive uniform or a badge, name plate, emblem, or patch that identifies both the employer and the employee. Employee identification shall be attached in a prominent place above the waist on an outer garment.

The ESCO shall remove from the site any individual whose continued employment is deemed by the Contracting Officer to be contrary to the public interest or inconsistent with the best interests of national security.

No contract employee will be admitted to the work site unless the employee or employer furnishes satisfactory proof of United States citizenship, or, if an alien, residence within the United States is legal and the individual holds a valid work permit (green card).

Work may be required in restricted access areas. Such "Restricted Areas" will be identified by the Government in the tasking letter and/or the contract task order. Contractor personnel shall not enter restricted areas without the appropriate entry pass or a Government escort. **(NOTE: If Facility or personal clearance is required, insert as appropriate either here or in Section H, as required.)**

1.5 Access To Buildings: It shall be the ESCO's responsibility, through the COR, to obtain access to buildings and facilities and arrange for them to be opened and closed.

Keys may be issued to the ESCO; however, it shall be the ESCO's responsibility to arrange for adequate security of the buildings and facilities at the end of each work day.

The ESCO shall be responsible for the cost of replacing any keys that are lost by its employees or for the rekeying of all locks that fit the lost key. This may include multiple locks in a single facility or multiple locks in multiple facilities. The Contracting Officer will instruct the ESCO whether to replace the lost key, replace the lock, or to rekey the entire system as appropriate. The ESCO shall bear all costs to replace the key or lock, or to rekey the entire system. Similarly, the ESCO shall pay the cost of changing a combination if the Contracting Officer has reasonable cause to believe the combination has been compromised.

Subject to the availability of COR personnel and approval of the Contracting Officer, the contractor may schedule work after 4:00 PM Monday - Friday as to avoid conflicts with regularly scheduled Government activities.

1.5.1 Contractor Facility and Storage Area: Unless specifically authorized by contract task order, the Government will not provide on-site accommodations for a contractor office or storage area. When such areas are authorized by a task order, the contractor shall maintain them in compliance with part 2.3.2.8 of this section.

2.0 **SCOPE:** This effort will involve "turnkey" retrofit services which, in addition to financing, will include energy conservation audits, ECM designs, energy efficient equipment installation, and operations and maintenance services for most ECMs on a shared cost basis. The ESCO shall provide an estimated or projected savings for each proposed energy conservation measure which the Government chooses to implement. The Government will make monthly payments to the ESCO following ECM implementation in an amount consistent with Section H, Special Contract Provisions. This effort is a three phased program that consists of: (a) Phase I -

Preliminary Site Survey; (b) Phase II - Facility Energy Audit and Economic Analysis; (c) Phase III - ECM Implementation (design, engineering, equipment procurement, financing and installation) and Operations/Maintenance of the ECMs. Phase I and Phase II may be directed by letter and the work shall not be separately priced. A contract task order shall be issued to acquire Phase III work. This contract will provide the means for Air Force installations located in (Virginia, West Virginia, South Carolina, North Carolina, Washington D.C., Maryland, Delaware, Pennsylvania, New York, Connecticut, New Jersey, Rhode Island, Maine, Massachusetts, New Hampshire, and Vermont) to issue individual task orders (**DD Form 1155 or SF 1449**). Prior to issuing a contract task order for any facility, or group of facilities, the ESCO shall have completed Phase II actions on subject facilities.

The scope of this contract includes energy savings measures, including, but not restricted to electrical, gas, steam, water and coal which may be accomplished at Air Force installations/activities located within **Region 4**, and in any facility or building for which these installations pay the utility bill. Energy conservation measures or efficiency improvements for energy consuming systems as well as infrastructure may be proposed by the ESCO for Government consideration and approval/disapproval. The Government will only consider proposals that have a 10 year or less simple payback as mandated by Title 10 USC 2865. It is not envisioned that energy system retrofits, facility construction, or energy system renovations or replacements, acquired through standard procurement procedures, using Congressionally appropriated funds, will be accomplished under this contract.

The selected ESCO may be required to perform energy efficiency improvements in military family housing and all other basewide facilities. The scope of this contract provides for the ESCO to perform a full range of energy services including, but are not limited to the following:

A. Technical and price proposals detailing comprehensive energy services for reduction of energy consumption or demand at a particular facility. Energy cost reductions may be obtained by either BTU reductions and/or dollar reductions, thus fuel conversions and demand reductions will be evaluated by the ESCO. Energy audits will be required to be performed by the contractor.

B. Design, acquisition, and installation of new equipment or modifications to existing equipment to improve the energy efficiency or reduce energy cost.

C. Operation, monitoring, maintenance and repair services, and training of Government personnel in use of new and/or modified equipment the ESCO has installed or modified.

The scope of this contract includes energy cost saving measures approved for implementation by the installation Civil Engineer and will be accomplished by a privately financed ESPC on installations in **Region 4** using private/non-governmental financing as authorized by Title 42 USC 8287 and Title 10 USC 2865, Energy Savings Performance

Contracting, for the duration of this contract. The ESCO shall furnish all labor, tools, equipment, and material necessary to identify potential energy efficiency improvements and to implement those approved for implementation. As an IDIQ contract there is no guarantee of future work under this contract. ESPC services available through contracts awarded by other federal agencies may be used in lieu of this contract as may Utility sponsored Demand Side Management (DSM) agreements with local utility service providers. However, proposals resulting from Phase II work remain the property of the ESCO and shall not be used to solicit competitive proposals from other ESPC or DSM providers.

Some work may be required in restricted access areas. Such "Restricted Areas" will be identified by the Government in the tasking letter and/or the contract task order. Contractor personnel shall not enter restricted areas without the appropriate entry pass or a Government escort.

2.1 Phase I - Preliminary Site Survey: The Contracting Officer will provide the ESCO a prioritized listing of facilities to be evaluated for energy conservation opportunities. The Preliminary Site Survey will consist of identifying ECMs that, if implemented, will result in reduced energy consumption and costs for the installation. If requested by the ESCO, the Government will provide the following information, if available, for each facility being evaluated: facility use/function (i.e., administrative, warehouse, hangar, etc.), occupancy information, and descriptions of any recent changes in the heating, cooling, lighting, or other energy systems. If the contractor desires to conduct a physical site survey of any facility, prior arrangements shall be made with the COR. The ESCO shall evaluate the targeted facilities to determine if there is an opportunity to develop a "paid-from-savings" ECM and provide a brief summary report containing recommendations for each facility or group of facilities. Only those ECMs with a payback of ten (10) years or less will be considered for implementation. Based on the results of the preliminary survey, the ESCO shall prepare an estimate of the potential energy (e.g., BTU, Kwh, Kw, etc.) and cost (dollars) savings the Government could expect by implementing the recommended ECMs. If the Government and the ESCO mutually agree that Phase I work is unnecessary, the Government may direct the ESCO to proceed directly to Phase II.

2.1.1 Phase I Report: As required by Paragraph 2.1 above, the ESCO shall include recommended ECPs in the Phase I summary report. For each ECP recommended for a Phase II analysis, the report shall include an estimate of the savings that will be generated and the estimated implementation costs. Additionally, the report shall also provide an estimated net benefit to the Government which shall be equal to the estimated savings minus any costs or fees the ESCO intends to recover (i.e. debt service and maintenance, monitoring, measurement and verifications (M&V) fees, etc.). The estimated net benefit will be adjusted for recommended ECPs the Government chooses not to pursue.

2.1.2 Phase I Summary: The purpose of the preliminary site survey is to determine, quickly, in general terms, and with little cost to the ESCO, if a particular facility is a viable candidate for installation of one or more ECMs. The recommendations will provide the basis for the

Government decision to proceed to Phase II and although brief, the summary report must support the recommendations.

2.1.3 Government Response to Phase I: The Government will, within reason, permit the ESCO to proceed with Phase II - Facility Energy Audits and Economic Analysis in those facilities with a favorable ESCO recommendation resulting from the Phase I survey; however, the ESCO shall not proceed to Phase II unless, and until, directed to do so by the Contracting Officer. The Government will notify the ESCO of which ECPs to complete a Phase II - Facility Energy Audit and Economic Analysis and when to proceed with Phase II work. The Government will also advise the ESCO of any recommended ECPs in the Phase I report which the Government does not plan to implement.

2.2 Phase II - Facility Energy Audit and Economic Analysis: The Contracting Officer will issue a letter to the ESCO to include a prioritized listing of facilities in which the ESCO is to perform a Phase II - Facility Energy Audit and Economic Analysis. Upon receipt of notification to proceed into Phase II, the ESCO shall commence an energy audit and life-cycle-cost economic analysis for each approved ECP. The analysis shall specifically identify (with detailed specifications and drawings) the energy conserving/efficient equipment and other improvements to be provided. There will be no separate cost to the Government for Phase II work.

2.2.1 Phase II Taskings: In completing the Phase II - Facility Energy Audit and Economic Analysis the contractor shall:

- a. audit the existing mechanical, electrical, and control systems and the envelope of each facility;
- b. conduct an in-depth interview with the installation energy manager, engineers, maintenance, and operating personnel to assess the operating characteristics of existing energy systems and goals for system improvements;
- c. review Air Force plans for other non energy related capital improvements and renovations for inclusion in this analysis;
- d. structure terms for Government payment to ensure the Government receives the optimum benefit of any grants or utility incentive payments to reduce the ECM implementation costs; and,
- e. If, after evaluating all viable ECP opportunities, the ESCO determines none would meet minimum payback criteria, the ESCO shall immediately stop work on the Phase II audit or economic analysis for that facility, and notify the Contracting Officer. Upon verification by Government engineers, the Contracting Officer will instruct the contractor to discontinue the Phase II - Facility Energy Audit and Economic Analysis for the affected facilities with no further liability or obligations by either party.

2.2.2 Access to Facility Data: In completing a Phase II initiative, the contractor will, upon request, have access to all available data concerning: utility records; operating logs, occupancy information; description of any changes in the production process in the building or its heating,

cooling, lighting or other energy requirements; descriptions of all major energy consuming or savings equipment in use, and a description of energy management procedures presently utilized. The ESCO shall consider this information when establishing the energy consumption baseline.

2.2.3 Phase II Report: Upon completion of Phase II - Facility Energy Audit and Economic Analysis, the ESCO shall provide the Government with an audit report identifying each proposed ECP. The report shall include the following data for each ECP evaluated during Phase II: implementation costs; projected savings; a Saving to Investment Ratio (SIR) analysis; a detailed description of the post implementation services to be provided by ESCO. The data for each ECP shall be summed and presented as a total for the proposed ECM (task order) along with a financing proposal and payment schedule for the total ECM. The projected savings shall be accompanied by a net present value (NPV) analysis using discount rates taken from the then current edition of the Energy Prices and Discount Factors for Life-Cycle-Cost Analysis which is published as the annual supplement to the National Institute of Standards and Technology (NIST) Handbook 135. NOTE: All ESCO evaluated ECMs shall be addressed in the Phase II report, even if the ESCO is not recommending their implementation.

2.2.4 Report Format: The Government will consider the Phase II - Facility Energy Audit and Economic Analysis report as a proposal to accomplish the Phase III - ECM Implementation. To permit an accurate assessment of the proposal the contractor shall include the following exhibits for each ECM proposed:

EXHIBIT A - Synopsis of Proposed ECM and Technical Proposal: The introductory portion of this exhibit shall include a synopsis of the proposed ECM in sufficient detail to clearly demonstrate the proposed work and the resulting energy savings along with any impact on personnel comfort or productivity. This exhibit shall also provide a detailed technical proposal to include a summary analysis of all energy conserving or efficiency improvements that were evaluated, a statement of work to accomplish the recommended retrofits, equipment replacements or infrastructure improvements, a listing of proposed equipment, specifications of the equipment to be installed, preliminary site layout drawings, the proposed implementation schedule, a Project Management and Operations (M&O) Plan, and notification and request for a frequency assignment for contractor transceiver systems. If the ESCO intends to secure third party financing for any portion of the proposed Phase III work, the proposed financing agreement and any assignments shall be included in this Exhibit for Government review and approval. For purposes of determining the Government's termination liabilities pursuant to Exhibit K, a monthly recap of the outstanding loan principal will be provided. Such schedule shall project the sum total of all incentives to be received over the life of the ECM and the effect of such incentives upon the reduction of the ECM's principal investment. The M&O Plan and the Maintenance Plan shall include, as a minimum:

- The methods the contractor proposes to ensure the system reliability.
- The names and addresses of all companies the contractor proposes to have perform subcontract work during the Phase III - Implementation and Operation/Maintenance phase.

This exhibit shall identify whether the subcontractor was previously approved or disapproved, by the contacting officer, for work under this contract, or is being submitted for first time approval. All subcontractors are subject to the approval of the contracting officer of the ordering installation.

EXHIBIT B - Calculations of Savings and Measurement and Verification Plan: This exhibit shall clearly and concisely identify projected energy savings in units of energy (e.g., Btu, kwh, kw, etc.) and the dollar amount of such energy savings. The total estimated savings shall clearly delineate between each category of savings i.e., energy and demand or water, avoided maintenance, and capital renewal savings (avoided maintenance and capital renewal savings are: (a) projects the base is committed to funding during the time of the proposed task order, and (b) service contracts as defined in Section B, paragraph 1.0). In addition to the ESCO's estimated savings, this Exhibit shall contain an amount the ESCO will guarantee in savings. This exhibit includes the projected sum total of all incentives (rebates, grants, etc.) to be received over the life of the ECM and the effect of such incentives upon the reduction of the contractor's investment. The ESCO will demonstrate by a Measurement and Verification (M&V) Plan how guaranteed savings will be validated.

EXHIBIT C - ESCO Compensation Format: This Exhibit details the amount and schedule of Government payments over the life of the task order. Using the Guaranteed Savings information from Exhibit B and the format shown in Figure C-1, this exhibit shall provide a proposed compensation schedule for each ECP/ECM. The ESCO may propose different guaranteed savings amounts and/or different sharing arrangements for each year of the task order. The ESCO has the option, unless otherwise specified by the government, to receive up to 100 percent of the guaranteed savings as payment for each ECM and/or combination of ECPs that make up an ECM. Based on the Guaranteed Savings amount, taken from Exhibit B, the Government will make monthly payments to the ESCO, as set forth in Section H. Contractor payments will begin the month following the first full calendar month after acceptance of the completed energy conservation measure by the Government. Figure C-1 shall include, as an attachment, a complete breakdown of all costs proposed for the ECM. The Contractor shall complete Figure C-1, and the accompanying cost breakdown, for each building included in the proposal. The breakdown shall include, as a minimum, a breakdown of labor rates by base rate and applicable indirect expenses (i.e., heating or cooling savings associated with lighting retrofits), and a list of materials and equipment with associated unit cost or price, quantity and extended cost/price. Breakdowns shall be provided by ECP, and shall be clearly traceable to ECP totals for each column. This exhibit shall also outline the proposed payments for maintenance services to be performed by the ESCO and any other payments that the parties may agree to include in the invoices of the monthly payments. The ESCO agrees to apply all monies received from rebates or grants to the Government's debt service on this contract. (The government will not be responsible for any agreement (i.e., leases, subcontracting agreement, etc.) made outside of the authority of this contract.)

EXHIBIT D - Buildings: This exhibit shall clearly identify each facility/building included in the report. Buildings shall be identified by: Building Number, Principle Function (Engineering, Contracting, Chapel, Supply, etc.), and Street Address.

EXHIBIT E - Baseline Data: This exhibit shall document the historical energy use of the building(s). The ESCO shall document how the baseline was developed. The data herein will be used for monthly calculations of Energy Dollar Savings as specified in Exhibit B.

EXHIBIT F - ESCO Post-Implementation Responsibilities: This exhibit shall outline the post-implementation actions the ESCO proposes to perform. The specific services to be performed by ESCO personnel shall include, but not be limited to, the following:

- Maintenance of ESCO-installed/owned equipment and systems as negotiated in each contract task order. This exhibit shall include a proposed schedule and cost for ESCO performed maintenance. In addition to the proposed maintenance schedule, this exhibit shall include the equipment manufacturer's recommended maintenance schedule for each energy system included in the proposed ECM;
- Measurement and Verification (M&V) services, in accordance with the negotiated M&V Plan as submitted in Exhibit B.
- Calculation of savings on a monthly basis and provide for an annual reconciliation of savings guaranteed by the ESCO and monthly payments made by the Government, and received by the ESCO during the previous twelve (12) months.
- Regular discussions with the COR or Base Energy Manager on optimizing energy savings from installed ECMs and other potential conservation opportunities and regular review of operating data recorded by the building automation system to assure proper equipment operation;
- Providing required periodic reports and analyses to the Government and attending meetings dealing with performance under this contract.
- Single point of contact (POC) for 24 hours a day service calls.

EXHIBIT G - Government Post-Implementation Responsibilities: This exhibit shall set forth those responsibilities the ESCO proposes the Government assume following ECM implementation. This shall include all actions expected of Government personnel to maintain and operate ESCO installed ECMs. Compliance with this exhibit, unless and to the extent it is altered during contract task order negotiations, shall relieve the Government of all liabilities in the event of system failure or if an ECM fails to achieve the estimated savings offered by the ESCO. Those items listed in this exhibit shall include any manufacturers recommendations and standard operating practice.

EXHIBIT H - Standards of Service: This exhibit shall clearly detail the impact of implementing each proposed ECP and the ECM as a whole. For example, what lighting level increases or decreases will

occur with a proposed lighting retrofit. Lighting levels, heating, and cooling temperatures shall comply with the standards established by the latest edition of Code of Federal

Regulations (41 C.F.R. Chapter 101), or local installation standards that implement 41 C.F.R. Chapter 101. Local standards will take precedence.

EXHIBIT I - Final Performance Tests: This exhibit shall outline performance testing procedures that are proposed for the Government acceptance testing, and shall identify who will conduct the testing. Each system to be tested will be identified with a cross-reference to the standard of performance the contractor proposes in EXHIBIT H.

EXHIBIT J - Equipment Availability and ECM Implementation Schedule: This exhibit shall clearly identify, by manufacturer and model number, what equipment is being proposed and the current availability of the equipment. The proposed installation schedule included in this exhibit must comply with the times the Government will make the facility available for the contractor to install each piece of equipment. Equipment that is accepted by the Government under this exhibit and under EXHIBIT A shall be considered approved by the Contracting Officer, no further request for approval is necessary. However, should the ESCO choose to install a make or model of equipment other than what is approved for EXHIBIT A or J, prior approval of the Contracting Officer is required. When requesting such approval, sufficient information regarding make and model, size, energy use, etc. shall be provided for Government engineering reviews.

EXHIBIT K - Termination or Buyout Costs: This exhibit shall include a proposed termination or buyout schedule for each contract task order being proposed should the Government choose to exercise this option at a future date. These costs shall represent the remaining balance of the Government payments to the ESCO shown by declining balance. For purposes of determining the Government's termination liabilities pursuant to Exhibit K, a monthly recap of the projected outstanding loan principal will be provided. In the event contract task orders are issued and ECMs installed, the Government will become liable for the following termination/buyout costs for such Task Orders:

a. An amount representing the unamortized principal of any ESCO or third party financing, plus any loan prepayment penalties. The dollar amount of such prepayment penalties shall be declared in this exhibit.

b. An amount payable to ESCO to reimburse payment of any incentives paid to the ESCO for the ECMs and any penalties imposed upon ESCO; alternately, the Government could assume ESCO's responsibilities and hold the ESCO harmless for any resulting claims. This exhibit shall be reaccomplished to reflect changes resulting from negotiations after submittal of the Phase II report.

NOTE: This is an Indefinite Delivery Indefinite Quantity (IDIQ) contract and as such there are no guarantees the Government will issue contract task orders in any amount at any time beyond

the guaranteed minimum which will be awarded concurrent with contract award; however, it is the intent of the Government to take advantage of this contract to accomplish energy conservation and infrastructure modernization work, which may result in the issuance of contract task orders.

BLDG #	E C P #	YEAR	ECP ANNUAL COST	ANNUAL GUARANTEED SAVINGS AMOUNT (GSA)	ESCO's ANNUAL SHARE OF GSA (percentage %)	ESCO's ANNUAL SHARE OF GSA (dollars \$)	GOV'T ANNUAL SHARE OF GSA (percentage %)	GOV'T ANNUAL SHARE OF GSA (dollars \$)
	1	1						
	1	2						
	1	3						
	1	4						
	1	5						
	1	6						
	1	7						
	1	8						
	1	9						
	1	10						
ECP #1 TOTAL								
	2	1						
	2	2						
	2	3						
	2	4						
	2	5						
	2	6						
	2	7						
	2	8						
	2	9						
	2	10						
ECP #2 TOTAL								
	Bldg TOTAL							
BLDG #	1	1						
	1	2						
	1	3						
	1	4						
	1	5						
	1	6						
	1	7						
	1	8						
	1	9						
	1	10						
ECP TOTAL								
	2	1						
	2	2						
	2	3						
	Bldg TOTAL							

▲ T1000 22 2 000 ▲

	ECM Total						
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Amendment 01
Figure C-1

EXHIBIT L - Pre-Existing Equipment Inventory: This exhibit shall identify the current equipment to be replaced by the proposed ECM described in EXHIBIT A. Any addition or deletion of said equipment during the performance period/term of the contract task order will be compared to this list to determine the impact on the net energy consumption in the facility/buildings and its effect on the savings related to the overall task order.

EXHIBIT M - Subcontracting Plan: This exhibit shall set forth the ESCO's plan for subcontracting work on the proposed ECM. Each proposal and resulting contract task order will be evaluated and monitored for compliance with the subcontracting plan goals. The goals established in the subcontracting plan shall be applicable to each task order when practical. When the contractor considers subcontracting to be not practical for a given ECM, the rationale shall be fully explained in this exhibit and included in the proposal package upon submission to the contracting officer. (Reference FAR clause 52.219-9 and L-1003b of the RFP).

EXHIBIT N - ECPs Evaluated - Not Recommended for Implementation: This exhibit shall provide a full explanation of all ECPs that were considered during Phase II, but not recommended for implementation.

NOTE: Because of the unique provisions of this contract that require the ESCO to identify, design, and implement energy conservation actions based largely on an economic analysis considering energy savings and ECM cost, it is absolutely essential that all ESCO/contractor proposals provide very detailed explanations of the energy baselining methodology and clear details on appropriate savings verification/validation (annual reconciliation) procedures.

2.2.5. Government Response to Phase II Report: Upon receipt of the Phase II - Facility Energy Audit and Economic Analysis Report, the Government will review the proposal for accuracy and potential benefits to decide if the ESCO will be allowed to proceed to Phase III - ECM Implementation. If the Government determines that a proposed ECM: 1) does not meet the Minimum Economic Criteria; 2) materially differs from the terms or conditions set forth in this work statement; or 3) is materially deficient, the report will be returned to the ESCO with written notification describing the differences or deficiencies. The ESCO shall correct the differences or deficiencies and submit a corrected report within thirty (30) days of receipt of said notification. This resubmission process may continue until a contract task order for Phase III work is issued, or the three-phased process is discontinued as provided herein. Conversely, the Government may award a contract task order after review of the Phase II report without further discussions or negotiations.

2.2.5.1. Rejection of Phase II Report Recommendations: The Government may choose not to proceed to Phase III - ECM Implementation for any, or all, of the proposed ECP(s) with no liability or obligations. Examples (this is not an all encompassing list) of why the Government may choose not to proceed to Phase III include:

a. The Government and the ESCO/contractor cannot reach agreement on an energy consumption baseline and a M&V method for validating savings; or

b. The proposed economic payback for the total ECM being proposed does not meet the 10 year payback criteria required on federal energy projects; or

c. The proposed ECP/M is not reasonably practical and workable for the installation; the Government determines the ECP/M could be detrimental to the national defense mission or quality of life of the installation; or, if ECM implementation costs cannot be paid from savings generated by the ECM; or

d. The status of the facility, or facilities, is such that it is not in the best interest of the Government to incur the investment liabilities for energy improvements. For example, the facility is scheduled for demolition or has a renovation or upgrade project that has been approved using appropriated funds.

2.3. Phase III - ECM Implementation and Operations/Maintenance: Whereas Phase I and Phase II work may be directed by letter, Phase III - ECM Implementation shall only commence upon the issuance of a contract task order by the Contracting Officer. Each task order will contain a detailed statement of work for proposed ECMs; however, the task order does not amend, modify or change any of the requirements of this statement of work or basic contract. In case of conflict between the terms of the task order and the basic contract, the terms of the contract shall control.

2.3.1. Contract Task Order: Each contract task order shall establish the specific terms and conditions for the ECM to be implemented, and the schedule for completing the implementation. The Government may, at its option accept the contractor's Phase II report without conducting further negotiations in which case the exhibits attached thereto shall be the accepted terms of the task order. If the Phase II report is amended or modified by negotiations, those amendments or modifications will be included in the task order and become the accepted terms and conditions for that single task order. Typically, the task order will contain the following exhibits:

- EXHIBIT A - Synopsis of Proposed ECM
- EXHIBIT B - Calculation of Savings
- EXHIBIT C - ESCO Compensation Format
- EXHIBIT D - Buildings
- EXHIBIT E - Baseline Data
- EXHIBIT F - ESCO Post-Implementation Responsibilities
- EXHIBIT G - Government Post -Implementation Responsibilities
- EXHIBIT H - Standards of Service
- EXHIBIT I - Final Performance Tests
- EXHIBIT J - Equipment Availability and ECM Implementation Schedule
- EXHIBIT K - Termination or Buyout Costs
- EXHIBIT L - Pre-Existing Equipment Inventory
- EXHIBIT M - Subcontracting Plan
- EXHIBIT N - ECPs Evaluated - Not Recommended for Implementation

Upon receiving a contract task order, the ESCO shall design, construct, purchase and install the equipment, and complete the ECM as specified in Exhibit A of the Phase II report, or as negotiated in the task order.

2.3.1.1. Infrastructure Conditions:

The government is not aware of every location of polychlorinated biphenyl (PCB) containing equipment, or every location of asbestos or other hazardous substance, as defined in applicable federal, state, or local laws, in any facility.

a. Known areas/facilities containing hazardous substances are identified in the installation Hazardous Waste Management Plan. The Contractor shall be responsible for the removal and disposal of hazardous substances if implementation of the ECM disturbs the hazardous substances in any areas/facilities known and identified to contain such substances, at its own expense, in accordance with paragraphs A-E below.

b. If the contractor discovers hazardous substances not previously identified after performance begins, the contractor shall immediately suspend that portion of work and notify the Contracting Officer. Under such circumstances the Government reserves the right to:

(1) remove and dispose of all hazardous substances, or

(2) negotiate with the ESCO for the removal and disposal under this contract and make adjustments to guaranteed savings and payment schedule as necessary.

The Government will make its best efforts to ensure that its identification, removal, and disposal responsibilities shall be performed in a manner so as to not unreasonably interfere with the performance of the contract.

A. This project may require the removal and disposal of asbestos-contaminated materials (ACM).

B. ACM Removal: ACM identification and removal, when required above, is federally regulated and requires special handling and disposal procedures. The Contractor will provide and coordinate asbestos removal in accordance with all current federal, state, and local regulations. If the Contractor suspects the presence of any ACM not identified as such by this contract, but is required to be disturbed to perform the contract work, inform the Contracting Officer at once. The Contracting Officer will then determine whether removal of the questionable material is required.

C. Coordination and Scheduling: Perform the contract work as required to minimize facility downtime. Notify the Contracting Officer prior to cutting, drilling, or otherwise disturbing any suspect ACM. The Contractor will provide assistance as required.

D. Liability: The Contractor shall be liable to the government for all costs incurred to clean up, handle, remove, and dispose of any ACM resulting from the Contractor's actions that do not comply with the requirements of this contract. The Contractor shall be liable for any and all damages incurred by the Government due to Contractor negligence or failure to comply with any federal or state regulations or with any contract terms.

E. If the Contractor observes soil discoloration and/or odor or any other anomaly, they shall stop work and contact the Contracting Officer immediately.

F. The ESCO shall be responsible for the removal, but not disposal, of all hazardous substances encountered in the ECM that do not require special handling. Examples of hazardous substances that may be encountered are, but not limited to, ballasts, lamps, and fixtures. All hazardous substances removed by the ESCO that do not require special handling shall be accounted for by the ESCO and placed in a location designated by the Government in the vicinity of the job site.

2.3.2. Phase III - ECM Implementation Performance Period: Each contract task order shall establish a date when all ECM implementation work will be completed, and unless modified by the Contracting Officer, will be the date the Government expects energy (Btu and energy costs) and other savings to begin accruing to the task order.

2.3.2.1. Inspection and Acceptance: All work will be subject to inspection by Government personnel as provided in Section E. Day-to-day inspections will be accomplished by an assigned Government inspector. Final testing and acceptance may be accomplished by a team of inspectors. The ESCO shall use its best efforts to ensure completion of each contract task order, on or before, the date specified. At the appointed time for final acceptance of a task order, the ESCO, subcontractor, or equipment installer shall fully demonstrate to the final inspection team that all retrofits and equipment are in proper working order and functioning as designed.

2.3.2.2. Work Schedule: The ESCO or qualified subcontractors will design and perform all Phase III - ECM Implementations. At least 14 days prior to starting the actual demolition or installation of equipment, the ESCO shall submit, for Contracting Officer approval, a proposed progress/work flow schedule for completing the entire ECM and a proposed daily work schedule. The proposed progress schedule shall be completed in accordance with Section I, Contract Clause, Clause 52.236-15, entitled "Schedules for Construction Contracts", and provides that once construction begins, work shall continue with a logical work flow to ensure completion in minimal time. Also, the ESCO shall submit, for approval, a daily work hour schedule that provides for minimal disruption of Government operations, which may require ESCO or subcontractor work at night, weekends, or holidays. Work will not be phased or fragmented so as to permit hazards of any kind in the work areas of Government personnel, nor will work normally be scheduled so that heating or air conditioning systems are not available during normal heating and cooling seasons. No work will commence until the work schedule has been approved.

2.3.2.3. Work Clearance (Construction/Digging/Welding Permits): It is possible that implementation of some ECMs will require digging, trenching, or excavation work. No digging, trenching, excavation, or other site preparation work will be accomplished until applicable Civil Engineer Work Clearance Permits, AF Form 103, have been completed. Additionally, the ESCO will coordinate all welding in advance with the COR and follow all base regulations regarding the operation of welding equipment and notification of the Base Fire Department. The installation Energy Management office will assist the contractor when necessary in securing these permits and coordinating with the fire department. The ESCO, as prime contractor, shall request all permits.

2.3.2.4. Equipment Measurements and Frequencies: All ECMs implemented by contract task order will have been previously proposed by the ESCO in the Phase II report; therefore, the ESCO shall verify the accuracy of all measurements and the visual condition of all equipment and adjoining infrastructure. Electronic transceiver systems must not interfere with local frequencies and shall not be activated prior to approval of the operating frequency by the installation frequency monitor.

2.3.2.5. Continued Use of Facilities: It is anticipated that all facilities will continue Government operations during ESCO retrofits or ECM work; therefore, the ESCO must schedule work so as to cause minimal disruption to the Government workforce. If necessary, the ESCO will schedule work at times other than normal or peak duty hours (i.e. nights and weekends). When working nights, weekends, and holidays, the installation team shall remove all construction debris, clean the area, and return all furniture that was moved to accommodate work crews, before the arrival of Government employees. Contract work crews will not be allowed to work when Government employees are present, if doing so would create a hazardous environment.

2.3.2.6. Disposal of Materials: All items removed from a facility under this contract, which retain no inherent monetary value, and are not designated for reuse by the Government, shall be considered as scrap. Scrap materials become the property of the ESCO and shall be removed from the site by the ESCO or subcontractor, at no additional expense to the Government (cost of disposal should be considered in the Phase II economic analysis or during Phase III negotiations) and disposed of off base and in such manner that meets all federal, state, and local environmental regulations. Government containers shall not be used for the disposal of ESCO scrap. The Government may, at its discretion, require certain equipment be delivered and turned in to the Government storage facility located on the installation for reuse at a later date. All refrigerants removed from equipment will be collected and turned over to the Government per local refrigerant management plans.

Notwithstanding the foregoing, title to hazardous substances shall remain with the Government. It shall be the responsibility of the Contractor, acting as a construction manager for the Government, to assist the Government in the proper removal of hazardous substances as outlined herein. The ESCO will have no responsibility for disposing of any hazardous substance. However, hazardous substances, such as PCB-containing ballasts, fluorescent lamps and any other hazardous substance, with the exception of asbestos or other special handling hazardous substances, will be removed, packaged, and labeled by the contractor and returned to the Government for disposal.

2.3.2.7. Contractor Provided Materials and Equipment: All ESCO provided materials and equipment that are installed under this contract shall be new. Used, rebuilt, or refurbished materials or equipment will not be allowed. All proposed materials and equipment shall be identified in the Phase II report. Materials and equipment that are identified in the Phase II report will be considered approved by the Government unless determined otherwise during Phase II negotiations.

2.3.2.7.1. Codes and Standards: All contractor work shall conform to the requirements of this contract and to the appropriate Local, State and Federal/National code for technology/system being implemented. All work must conform to local installation facility standards. All products and equipment provided by the contractor shall be Underwriters Laboratory or Factory Mutual listed or equal. All codes and standards requirements shall be based on the latest edition of applicable Local, State, and Federal codes at the time of the award of each contract task order.

2.3.2.7.2. Facility and Equipment Disposition: The facilities, equipment, material, tools, software, licenses and other items used by the contractor, or that are required to operate and maintain the systems provided and installed under this contract as listed in each task order, shall become the property of the Government at the end of the task order term at no additional cost to the Government, unless otherwise stated in the contract task order.

2.3.2.7.3. Environmental Protection: The contractor shall perform all work in such a manner as to minimize the pollution of air, water, or soil, and to control noise and dust within reasonable limits in accordance with all applicable Federal, State, and Local codes and regulations.

2.3.2.7.4. References: The publications listed below form a part of this work statement and are to be followed in completing both Phase II and Phase III work.

<u>PUBLICATION NO.</u>	<u>DATE</u>	<u>TITLE</u>
AFIND 17	Jul 97	Index of Air Force Occupational Safety and Health (OSHA) Standards, and National Institute for Occupational Safety and Health (NIOSH) Publications
AFR 125-14		Motor Vehicle Traffic Supervision (to be replaced with AFI 31-204)

AFI 32-7042	May 94	Solid and Hazardous Waste Compliance
AFI 32-7045	Apr 94	Environmental Compliance Assessment and Management Program
AFI 64-106	Mar 94	Air Force Industrial Labor Relations Activities
AFI 91-301	Jun 96	Safety, Fire Protection, and Health (AFOSH) Program
DOD 5500.7-R	Mar 93	Joint Ethics Regulation
Public Law 97-214		Disposal of Recyclable Material (10 U.S.C. 2577)
Executive Order 12873	20 Oct 93	Federal Acquisition, Recycling & Waste Prevention
	28 Sep 93	Deputy Under Secretary of Defense (ES) Memorandum
	Jan 93	Chief of Staff of the Air Force/Secretary of the Air Force Action Memorandum, Air Force Pollution Prevention Program

2.3.2.7.5. Fire and Ambulance Jurisdiction: The installation shall have jurisdiction over and shall be principally responsible for fire prevention inspections and fire fighting at any on-base contractor facility. The contractor shall provide keys to the Fire Marshal for access into any on-base fenced area, building, or structure. The keys shall be labeled or permanently tagged for their respective locks and shall be replaced within one day if the lock is changed. The installation Fire Chief shall be the authority having jurisdiction in all fire prevention, fire protection, and fire fighting related matters. Ambulance service will be provided by the installation on a reimbursable basis.

2.3.2.8. Daily Cleanup: Contractor personnel shall at all times keep the premises, to include any and all designated storage areas, free from accumulations of waste materials, rubbish, or construction debris. At the completion of each workday, all cartons, waste materials, rubbish, construction debris, wrapping, etc., shall be removed from the work area.

2.3.2.9. Engineering Drawings: Upon completion of each system installation and prior to final acceptance, the contractor shall provide a complete set of record drawings to the Contracting Office. Drawings shall be submitted on computer disks using Computer Aided Design (CAD) and be of sufficient detail to accurately reflect the location of all ECM work. Drawings shall be submitted in a CAD software version and format designated by the COR. Plug-in replacements, such as lighting retrofits, energy-efficient motors, etc., will not require such drawings. Updates to Government provided drawings are acceptable as long as they reflect all changes that resulted from the ECM.

2.3.2.10. Warranties and Operating Manuals: Upon completion of each system installation and prior to final acceptance, the ESCO will provide to the Government any manufacturer's warranty for equipment, parts, or systems installed as part of the ECM for which the Government will assume maintenance responsibilities. Additionally, one original copy of the manufacturer's owners/operations manuals, one original copy of the manufacturers maintenance manual that includes illustrated parts breakdown and a parts number listing for all system components shall be provided for such equipment or system before final acceptance by the Government. The ESCO will maintain and administer warranties relating to equipment, parts or systems that will be maintained by the ESCO or a subcontractor.

2.3.2.11. ESCO Provided Maintenance: For equipment that is maintained by the ESCO, there shall be a notice, on or near each piece of equipment, that directs Government and/or other contractor personnel not to perform repair work on the equipment, but to contact the COR . It shall provide the name and phone number of the person to contact for repairs. The information on these maintenance tags shall be current at all times.

2.3.2.12. Interruption of Utility Services: Neither the ESCO, nor any subcontractor, shall shut off any utility service to any facility without prior coordination and approval of the COR. Request for an interruption of utility service shall be made not less than five days in advance of planned interruption. The ESCO will coordinate all schedule utility outages with the COR in advance of scheduled outage. For those utility outages accomplished to accommodate the ESCO, it shall be the responsibility of the ESCO to ensure full service is returned to all affected facilities.

The Government will provide utility services for ESCO personnel use in base facilities. The Government may not be held responsible for interruptions of utility services and will not be liable for contractor delays, damages, or increased costs, occasioned by any such interruption of services.

2.3.2.13. Phase III - ECM Implementation Completion: Acceptance by the Government shall deem the completion of ECM implementation portion of the task order with immediate transition to Phase III - Operations/Maintenance portion of the work as outlined in the contract task order. Upon completion of Phase III - Implementation, the Government will commence monthly payments as outlined in the contract task order.

2.3.2.14. Acceptance Testing of ESCO Installed Equipment: The Government will verify equipment performance at time of final acceptance and as determined necessary by the Government.

2.3.2.15. Monthly Energy Savings: Each task order will contain an "Exhibit B" detailing how energy savings are calculated, as determined for each task order; i.e., computer modeling, metering or utility bill reconciliation. In the later case, each month, within ten days after receipt of the monthly utility bill, the ESCO shall present the COR a Statement of Energy Savings with calculations of energy savings that occurred during that billing cycle.

2.4. Phase III - Operations/Maintenance, Repairs, Monitoring, and Measurement and Verification (M&V). The ESCO responsibilities will be established in Exhibit F of each task order. Exhibit F of the Phase II report shall detail responsibilities of the ESCO during the contract period that remains after completion of Phase III - ECM Implementation and provide the monthly service charge for accomplishing those responsibilities. Phase III Operations/ Maintenance work is subject to the Service Contract Act and these responsibilities begin immediately upon acceptance of the Phase III installation. Payment for Operations/Maintenance work will begin the month following acceptance of the Phase III - ECM Implementation installation by the Government, and continue until task order completion, unless an earlier completion date is agreed upon.

2.4.1 Ownership and Responsibility for Systems and Equipment:

a. Unless relieved of ownership responsibilities by the Government, the ESCO shall at all times during the term of the task order have full ownership responsibilities of the ESCO-furnished systems and equipment. The contractor may modify, replace, or change the systems and equipment during the term of the task order from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with the COR and the approval of the Contracting Officer. Any such modification, replacement, or change of equipment shall be performed at no cost to the Government, unless prior approval is obtained. All equipment installed by the contractor at the installation is and remains the property of the contractor or the contractor financing party (e.g., a third party lessor) during the contract term (See Section H, Protection of Lien Holder Interest). The contractor shall submit the name of the proposed lessor who would take title to the ECMs and equipment in the contractor's behalf to the Contracting Officer for review and approval; such approval shall not be unreasonably withheld. Title to all systems and equipment, not earlier vested to the Government, shall vest in the Government upon completion of the task order.

b. The Government reserves the right to relieve the contractor of ownership and responsibility for energy savings for retrofit systems and equipment when it is in the best interest of the Government.

2.4.2. Maintenance Responsibilities: The ESCO shall perform maintenance responsibilities as outlined in the contract task order. Typically they will include all scheduled or preventative maintenance to maintain or enhance equipment efficiency as well as unscheduled maintenance or repair work. The ESCO or maintenance subcontractor shall establish and maintain a complete file of maintenance records for each ECM. Those records shall be available for Government inspection. The ESCO shall provide the Government with all maintenance schedules.

2.4.3. **Scheduled Maintenance:** Contractor personnel will contact the COR to schedule access to facilities in order to perform scheduled maintenance. Scheduled maintenance will normally occur during regular working hours. However, if equipment or system shut-down is planned, it will normally be scheduled for nights, weekends, or holidays.

2.4.4. **Unscheduled Repairs:** The Government will notify the ESCO of equipment or system breakdown and provide the priority of the repairs.

2.4.4.1. **Emergency and Urgent Repairs:** For repairs deemed "emergency" by the Government; meaning endangerment to life or property, the ESCO shall have repair personnel on-site within 2 hours. For repairs deemed "urgent" by the Government (meaning disruption of the Government workforce), the ESCO shall have repair personnel on-site within 4 hours. Repair work for both "emergency" and "urgent" repairs shall continue until completed, or the COR determines the repairs cannot be completed but the priority is reduced to routine. The Government reserves the right to take the actions necessary to protect life or property, or prevent disruption of the Government workforce in the absence of ESCO personnel. Government actions will normally not extend to alleviating or correcting the problem; however, the Government reserves the right to make the necessary repairs to correct urgent or emergency situations. The costs for such repairs shall be withheld from the next monthly payment to the ESCO. Disagreements over such withholdings shall be resolved under the Disputes provisions of this contract.

2.4.4.2. For repairs deemed routine by the Government, the ESCO shall have repair personnel on-site within 72 hours. Routine repairs shall be completed within 30 days of initial notification. Repair priorities may be upgraded by the Government from routine to urgent or emergency, if warranted by changing conditions. The ESCO shall be liable for payment of damages for losses resulting from a negligent failure to convert urgent or emergency work into a routine priority within 8 hours after arrival on site. For routine repairs, the Government may at its option, complete, or have completed, such repairs after waiting 30 days for ESCO personnel to complete the work. The costs for such repairs shall be withheld from the next monthly payment to the ESCO. Disagreements over such withholdings shall be resolved under the Disputes provisions of this contract.

2.4.5. **Measurement & Verification (M&V) Responsibilities:** The contractor's M&V responsibilities, and the methods that will be used to verify actual savings shall be established in each contract task order. If multiple methods are used, the applicable energy technologies for each M&V methodology shall be identified in the task order.

2.4.6 **Government Provided Assistance:** While it is mutually agreed and understood the Contractor retains the sole responsibility for the maintenance and performance of equipment that the Contractor has agreed to maintain for its account, the Government agrees to assist as in its best interests, to avoid energy demand spikes, a demand peak or such other event that would be detrimental to the overall mission. Hence, it is agreed that the Government has sole discretion to act to assist the Contractor, if so requested, in the example types of activities as follows:

- a. Reset hand-off automatic switches;
- b. Hand start engine/generator sets upon request by the Contractor, should the auto start equipment fail;
- c. Override equipment start-stops schedules should Contractor not be able to perform such tasks via remote modem monitoring;
- d. Other such actions as requested and expressly specified for the mutual benefit of the Contractor and the Government under this agreement, provided that no variable cost would accrue to the Government.
- e. The Government does not guarantee that it will in fact provide the assistance requested. The Government will evaluate each request and provide the assistance as practicable and when in the Government's best interest.

In all such cases where Government intervention is undertaken at the request of the Contractor, the Contractor agrees to hold harmless and to indemnify the Government for any liability that may be incurred for damages to the Contractor's equipment or lost savings. No action or inaction taken by the Government under this paragraph will be subject to the Disputes Clause, FAR 52.233-1.

3.0. TRAINING: The ESCO or subcontractors shall provide equipment operation training for up to four Government personnel before the Government assumes maintenance responsibilities. For those ECMs which the Government will maintain immediately following completion of the Phase III - ECM Implementation installation portion of the work, this training will occur before the acceptance inspection. For those ECMs which the ESCO has maintenance responsibilities, this training will occur at completion of the contractor's performance period, but before the Government assumes maintenance responsibilities. Training plans shall be prepared and given to the Government upon completion of each training session.

4.0. DEFINITIONS: As used throughout this contract, the following terms have the meanings set forth below:

4.1. BASEWIDE, is defined as meaning all types of facilities for which a base is assigned energy management, maintenance and reporting responsibilities. This includes, but is not limited to: clinics and medical complex facilities, Morale, Welfare and Recreation (MWR) facilities, industrial, administrative, warehouse, aircraft hangers, chapels, dormitories and Military Family Housing (MFH).

4.2. CONTRACTOR. The term Contractor as used herein refers to both the ESCO as prime contractor, and any subcontractors. The ESCO shall be responsible for insuring that his subcontractors comply with the provisions of this contract.

4.3. ESCO or CONTRACTOR REPRESENTATIVE. A foreman, superintendent, or manager assigned in accordance with the contract clause entitled, '*Superintendence by Contractor*' (FAR 52.236-6).

4.4. CONTRACTING OFFICER (CO). Person(s) with the authority to enter into, administer, and/or terminate contracts.

4.5. CONTRACTING OFFICER REPRESENTATIVE (COR). Person(s) who works closely with the CO in the acquisition and administration of contracts and assumes certain functions delegated by the CO.

4.6. ENERGY CONSERVATION MEASURE (ECM). An initiative to improve the energy efficiency of a facility or group of facilities. For purposes of this contract a ECM is equivalent to a contract task order which may consist of a single ECP or multiple ECPs. ECMs shall not exceed a ten-year simple payback.

4.7. ENERGY CONSERVATION PROJECT (ECP). A project to retrofit or replace a single energy consuming system, i.e., exit lighting, warehouse lighting, office lighting, central heating and cooling, etc.. ECPs may be combined to form an energy conservation measure.

4.8. TEN-YEAR PAYBACK: A ten-year simple payback is defined as the contractor's capital investment cost divided by the annual guaranteed savings.

4.9. PROCURING CONTRACTING OFFICER (PCO). A person with authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

4.10. Where "as directed," "as required," "as permitted," "approval," "acceptance" or words of similar import are used, it shall be understood that direction, requirement, permission, approval or acceptance of the CO is intended unless stated otherwise.